

### **REMARKS/ARGUMENTS**

The non-final Office Action mailed March 29, 2011, has been reviewed and these comments are responsive thereto. Claims 1, 7, 28 and 29 have been amended, claim 30 has been added and claims 13-17 were previously canceled. No new matter has been added. Claims 1-12 and 18-30 are thus pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

#### ***Rejections Under 35 U.S.C. §112***

Claims 28 and 29 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. Without acquiescing to the rejection, Applicant has amended claim 28 and 29 to be in a more preferred form. Withdrawal of this rejection is respectfully requested.

#### ***Rejections Under 35 U.S.C. § 103***

Claims 1, 4, 5, 7, 10, 11, and 18-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,438,752 to McClard (hereinafter “McClard”), in view of U.S. Patent Application No. 2003/0028871 to Wang et al. (hereinafter “Wang”) and further in view of U.S. Patent Application No. 2002/0095676 to Knee et al. (hereinafter “Knee”).

Claims 2, 3, 8 and 9 stand rejected under § 103(a) as being unpatentable over McClard, in view of Wang, in view of Knee, and further in view of U.S. Patent Application No. 2003/0020744 to Ellis et al. (hereinafter “Ellis”).

Claims 6 and 12 stand rejected under § 103(a) as being unpatentable over McClard, in view of Wang, in view of Knee, and further in view of U.S. Patent Application No. 2002/0104087 to Schaffer et al. (hereinafter “Schaffer”).

Claims 26 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over McClard in view of Wang, and Knee and further in view of Bedard (U.S. Patent No. 5,801,747, “Bedard”). For the reasons presented below, Applicant respectfully traverses.

#### **Independent Claim 1**

The references of record do not teach or suggest the features disclosed in independent claim 1. For example, amended claim 1 recites, *inter alia*:

adding a category from a first set of categories of content items to a second set of categories of content items in response to a content viewing device being tuned, for a period of time at least equal to a first predetermined threshold, to a plurality of content items belonging to a category of the first set of categories, wherein the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category.

The Office Action concedes at p. 4 that McClard does not teach or suggest updating a second set of categories in response to a plurality of content items being tuned for a period of time at least equal to a first predetermined threshold. Instead, the Office Action relies on Wang. P. 4 (Citing para. [0034]). However, Wang similarly describes monitoring the time that a “content surfer” spends viewing a “program of interest” before switching to another channel (the “session time”) and adding that time to a stored sum of the previous session times spent viewing *that particular content* (the “total time”), and once that total time reaches the threshold, updating user preferences. Wang at para. [0034]; see also Fig. 4*b*. Clearly, McClard and Wang are directed to monitoring a time spent watching a *single particular* program and comparing that time against a threshold. Claim 1, on the other hand, recites a content viewing device being tuned to a *plurality of content items* for a period of time at least equal to a threshold, wherein the period of time includes a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category. Thus, even assuming, without conceding, that McClard and Wang are properly combinable (as emphasized in the Office Action at p. 2), the combination would still fail to teach or suggest an amount of time a content viewing device is tuned to a *plurality* of content items belonging to a category, the amount of time including a first amount of time tuned to a first content item belonging to the category and a second amount of time belonging to the category. The addition of Knee fails to cure the deficiencies of McClard and Wang. Claim 1 is thus allowable for at least these reasons.

### **Independent Claim 7**

Amended claim 7 recites substantially similar features as claim 1 and is thus allowable for substantially similar reasons as presented above. Accordingly, Applicant respectfully requests the rejection of claim 7 be withdrawn.

### **Dependent Claims**

Dependent claims 2-6, 8-12, and 18-29 are allowable for the at least the same reasons as their respective base claims and further in view of the additional features recited therein. The addition of Ellis, Schaffer or Bedard, alone or in combination, fails to cure the deficiencies of McClard, Wang and Knee with respect to claims 1 and 7. Accordingly, Applicant respectfully requests all rejections be withdrawn.

### ***New Claim***

Claim 30 has been added. No new matter has been added. Support for the recited features may be found throughout the originally filed Specification.

Claim 30 recites features similar to those discussed above with respect to claim 1 and is thus allowable for at least the same reasons as claim 1.

### **CONCLUSION**

All rejections having been addressed, Applicant respectfully requests entry of the present amendment and notification of allowance. If any fees are due, or if an overpayment has been made, the Director is authorized to debit or credit Deposit Account No. 19-0733. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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